

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 974

INTRODUCER: Senator Hooper

SUBJECT: Disclosures of Ad Valorem Taxes

DATE: March 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 974 requires that online listings of residential property include an ad valorem tax estimator tool which calculates the ad valorem tax that would be due on the property at current rates. A platform must also provide a link to the respective county property appraiser's website for a more detailed property tax estimate for the residential parcel.

The bill further requires each property appraiser to provide the Florida Department of Revenue (DOR) with information needed to calculate such an estimate. DOR must publish this information alongside a formula to calculate an estimate of ad valorem taxes annually.

The bill takes effect July 1, 2023.

II. Present Situation:

Online Real Property Listing Platforms

The marketplace for real estate has greatly shifted over time in favor of online listings of property; more than half of all homebuyers in 2022 found the home they purchased on the internet.¹ There are many large online platforms which list real estate, the most familiar of which being Zillow, Realtor.com, Trulia, and Redfin. In addition to large platforms, many individual realtors have websites which include listings of real estate for sale.²

¹ National Ass'n of Realtors, *Quick Real Estate Statistics*, Nov. 3, 2022, available at <https://www.nar.realtor/research-and-statistics/quick-real-estate-statistics> (last visited Mar. 17, 2023).

² *Id.* The National Association of Realtors posits that it has more than 1,600,000 members, 70% of brokers and sales agents have a website, and 81% of their members have their own listings on their website.

Online real property listing platforms are not unified in the information displayed to the user. Some, but not all, include the property's public tax history, a link to the county property appraiser's website, and an estimate of property taxes.³

Property Tax Estimates

Estimating an individual's tax estimate requires many pieces of information. These might include the parcel's millage rate, applicable exemptions, the property's value, applicable classified property uses, and other assessments on the property.⁴ While there is no requirement to this effect, some property appraisers include on their website a tool or worksheet to assist homeowners in estimating property taxes.⁵

Ad Valorem Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.⁶ The property appraiser annually determines the "just value"⁷ of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."⁸ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁹ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.¹⁰

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;¹¹ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often results in lower

³ For example, Zillow's listings include all of the listed information, and the website's mortgage calculator includes estimated property taxes based on the home's value. <https://www.zillowhomeloans.com/calculators/mortgage-calculator/> (last visited Mar. 17, 2023).

⁴ Florida Department of Revenue, *Property Tax Information for First-Time Florida Homebuyers*, available at <https://floridarevenue.com/property/Documents/pt107.pdf> (last visited Mar. 17, 2023).

⁵ See, e.g., Miami-Dade County, *Tax Estimator*, available at <https://www.miamidade.gov/Apps/PA/PAOnlineTools/Taxes/TaxEstimator.aspx> (last visited Mar. 17, 2023).

⁶ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

⁷ Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁸ See s. 192.001(2) and (16), F.S.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ See FLA. CONST. art. VII, s. 4.

¹¹ Section 193.011(2), F.S.

assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;¹² land used for conservation purposes;¹³ historic properties when authorized by the county or municipality;¹⁴ and certain working waterfront property.¹⁵

Property Tax Exemptions for Homesteads

A homestead exemption is a reduction of assessed value, and therefore tax liability, based on the individual's maintaining a property as their primary residence. Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹⁶ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.¹⁷ This exemption does not apply to ad valorem taxes levied by school districts.

The Florida Constitution authorizes various additional homestead exemptions, either directly through legislation or through statutory permission for local governments to enact. These homesteads are based largely on the status or profession of the person maintaining the homestead property.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 689.261, F.S., to provide that online listings of residential property visible on any public-facing online real property listing platform, to include websites and web or mobile applications, must include an ad valorem tax estimator tool which calculates the ad valorem tax that would be due if the purchaser were taxed on the listing price of the property at current millage rates. The calculated tax must be identified as the purchaser's property tax estimate and must specify that the estimate does not represent actual taxes due for the property. The platform must explain that the jurisdiction of applicable taxing authorities may vary within a county and that the estimate does not include applicable non-ad valorem assessments, exemptions, discounts, or other benefits. The tool may not display taxes paid by the seller.

The bill further provides that each property appraiser shall annually provide the Florida Department of Revenue (DOR) with the information needed to calculate such an estimate, including the county name, tax district code, and applicable summary millage rates. DOR must publish this information alongside a formula to calculate an estimate of ad valorem taxes annually by December 15.

¹² FLA. CONST. art. VII, s. 4(a).

¹³ FLA. CONST. art. VII, s. 4(b).

¹⁴ FLA. CONST. art. VII, s. 4(e).

¹⁵ FLA. CONST. art. VII, s. 4(j).

¹⁶ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

¹⁷ Section 196.031(1)(b), F.S.

¹⁸ See, e.g., FLA. CONST. art. VII, s. 6(d); Sections 196.081, 196.082, 196.091, and 196.102, F.S.

Online real property listing platforms required to provide the tax estimator tool must use the listing price as the property's taxable value for utilizing the formula provided by DOR. A platform must also provide a link to the respective county property appraiser's website for a more detailed property tax estimate for the residential parcel.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. The bill requires that property appraisers submit certain information to DOR annually, which would likely not incur additional expense for local governments.

Article VII, section 18 (d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an "insignificant fiscal impact" are exempt from the mandate requirements, which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.^{19,20} Any local government costs associated with the bill are speculative and not readily estimable for purposes of determining whether the exemption for bills having an insignificant fiscal impact applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

¹⁹ FLA. CONST. art. VII, s. 18(d).

²⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 6, 2023).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Those operating online real property listings may incur minor expenses in implementing the tax estimator tool.

C. Government Sector Impact:

The DOR analysis for a comparable bill with similar effects, HB 1097, indicates no fiscal impact as a result of the bill.²¹ While the DOR and local property appraisers are obligated to take certain actions, these are not likely to incur additional expense.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 689.261 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ Florida Department of Revenue, *2023 Agency Legislative Bill Analysis HB 1097*, on file with Senate Committee on Community Affairs.